Remarks

New claims 41-73 are different from the earlier claims in three respects. First, the two independent claims -- claim 41 (system) and claim 56 (method) – define adjusting the spread of the security price provided to a particular client based on both information regarding past trades of that particular client and information regarding price quotes previously provided to that particular client. Second, past trade and price quote information for the particular client are not used just individually. Rather, the spread price adjustment is based on relationships among past trades of the particular client and price quotes provided to the particular client. Third, the adjustment is in addition to any adjustment of the spread of the security price that may be made uniformly for clients based on trade and quote information stored for all clients of the institution as a whole.

With respect to the second feature, some of the dependent claims such as claim 49 concern a ratio of the number of trades executed by the particular client to the number of price quotes provided to him. This is an example of the price adjustment being based on a relationship among past trade information and price quote information pertaining to the particular client.

The pertinent language from the two independent claims is as follows:

Claim 41:

> a price adjustment module in communication with said pricing engine for adjusting the spread of the security price provided to said particular client based on (1) information stored in said past trades database regarding past trades of that particular client, (2) information stored in said price quote log regarding price quotes provided in the past to that particular client, and (3) relationships among information stored in said past trades database and said price quote log regarding said particular client in addition to any adjusting of

the spread of the security price that may be made uniformly for clients of said financial institution based on all of the information stored in said past trades database and said price quote log.

Claim 56:

automatically adjusting the spread based on (1) information regarding past trades of said particular client, (2) information regarding price quotes previously provided to said particular client, and (3) relationships among past trades of and price quotes provided to said particular client in addition to any adjusting of the spread of the security price that may be made uniformly for clients based on past trades of and price quotes previously provided to clients of the financial institution as a whole.

It will be apparent that all claims now define the three features discussed above.

In the final rejection of the parent application the Examiner cited the Madhavan article. The article does not appear to teach adjusting a spread quoted to a particular client based on the past trading history of that particular client. And it certainly does not teach adjusting a spread based on relationships among past trades of that particular client and price quotes provided to that particular client as distinguished from the client population as a whole.

In the final rejection of the parent application the Examiner also cited Greenwald Publication No. 2002/0161693. This publication teaches storing past trade information and past quote information for clients as a group, and the use of this information to generate price spreads. But the spread quoted to a particular client does not appear to be client-specific, i.e., the quoted spread does not depend on both past price quotes and trades of the particular client being quoted a price. Certainly, there is no mention of the price spread being a function of a relationship among past trade information and price quote information pertaining to the particular client.

In the final rejection of the parent application the Examiner also referred repeatedly to prior art that the applicant acknowledged. But nowhere did the applicant suggest that the prior art taught a client-specific adjustment separate from an adjustment based on an institution's client population as a whole where the client-specific adjustment is based on relationships of client-specific past trades and client-specific past price quotes.

The Flood prior art article is first used substantively by the Examiner on pages 18-19 of the final rejection. After acknowledging that Medhavan does not teach adjustment of the spread based on a ratio of the number of past trades to a number of past price quotes (an example of the relationships defined in the broader independent claims), the Examiner quotes from Flood, page 49. But the Examiner then acknowledges that Flood "fails to explicitly disclose a system/method wherein said price adjustment module causes said spread to be adjusted based on a ratio of said number of trades to said number of priced quotes."

Without any prior art that could be cited as teaching the relationship criterion (the broad relationship criterion was not used in the earlier independent claims although specific relationships were rigorously defined in dependent claims), the Examiner simply states that it would have been obvious. The Examiner starts by saying that it was old to adjust a business strategy based on past transactions. No one would disagree with that. The Examiner proceeds with what amounts to another well known principle – profits can decrease even though the price is raised (because of fewer sales) and profits can increase even though the price is lowered (because of increased sales). From these simple principles the Examiner concludes that it would have been obvious to use a ratio criterion (i.e., a relationship among the number of past trades and the number of past quotes). There is no justification for this conclusion. A desire to increase profits may have been an obvious goal, but that is all that was obvious. How to do it was not at all obvious. The Examiner has not explained why it would have been obvious that profits could be increased if the price spread is adjusted based on the defined relationships.

For the foregoing reasons the claims in the subject application are all distinguished from the prior art cited by the Examiner, both individually and in combination. Accordingly, the early passage to issue of the application is respectfully requested.

The Commissioner is authorized to charge any additional fees that may be required, or to credit any overpayment, to Deposit Account No. 07-1730.

Respectfully submitted
Gottlieb, Rackman & Reisman, P.C.

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By: Michael I. Rackman

Michael I. RACKMAN
Attorney for Applicants
Registration No. 20,639